

# STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES  
DIVISION OF HEALTH CARE SERVICES

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June 10, 2011

Dear Tribal Health Leader,

On behalf of the Department of Health and Social Services (DHSS), I am writing to inform you of proposed future Medicaid state plan amendments (SPA), in keeping with DHSS's responsibility to conduct tribal consultation.

**Tribal Consultation:** the Alaska Department of Health and Social Services (DHSS) intends to submit a Medicaid SPA describing the tribal consultation process used by the Alaska Medicaid program. In February 2011, the Department worked, through the Alaska Native Health Board, with tribal providers to develop a process for consultation on Medicaid State Plan amendments (see attached).

The process described will be the process contained in the attached document. While DHSS has a long standing policy of consulting with tribal health providers regarding the Medicaid program, this State Plan Amendment will formalize the process in accordance with changes in federal law. Once this SPA is submitted, all subsequent SPAs are subject to the process outlined in that SPA.

Under the proposed consultation process, DHSS is required to solicit written comment on SPAs likely to have an effect on American Indians/Alaska Natives, tribal health programs and or the IHS. This letter is to inform you of two proposed SPAs that are not likely to have such an effect. As such, DHSS does not believe that they fall within the consultation requirement. However, in keeping with the spirit of consultation, DHSS is offering tribal health leaders an opportunity to consider whether they believe the SPAs described below will likely have an effect on American Indians/Alaska Natives, tribal health programs or the IHS and, if so, offer comments.

**Personal Needs Allowance:** DHSS intends to submit a State Plan Amendment implementing the Medicaid provisions of House Bill 16, which increases the personal needs allowance for Medicaid recipients residing in nursing facilities from \$75/month to \$200/month. Under federal Medicaid law, nursing facility residents are required to use their income, less the deduction for personal needs and a few other allowable deductions, to pay toward the cost of their nursing facility care. This requirement applies to a few other long term care institutions, like intermediate care facilities for the developmentally disabled.

This will result in most Medicaid eligible nursing facility residents, including Alaska Natives and American Indians, having additional money to spend on their personal needs. Nursing facility providers may see the amount of resident contribution decrease, but this will be offset by an equivalent increase in the payment from Medicaid. As this change is the result of a change to state statute, DHSS does not have discretion as to the amount of the personal needs allowance.

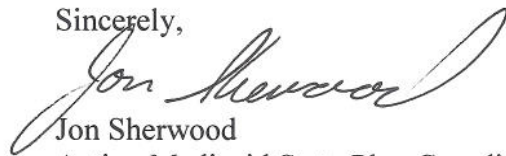
DHSS does not anticipate that this change will have a significant impact on Alaska Natives/American Indians or tribal health programs.

**Dentures:** DHSS intends to submit a SPA modifying the definition of covered denture. This amendment is not intended to change the current coverage of dental care or dentures under the current State Plan, only to remove the reference to extractions and alveoloplasty in preparation for dentures from the description of services included in the annual/biennial denture expenditure limit, as these procedures are already covered under dental services. This change is necessary to clarify to CMS that expenditures for extractions and alveoloplasty do not count toward the annual or biennial limit on dentures.

DHSS does not anticipate that this change will have a significant impact on Alaska Natives/American Indians or tribal health programs.

Please provide any written comments or questions regarding the Personal Needs Allowance or Dentures State Plan Amendments within 30 days of the date of this letter to Jon Sherwood, Alaska Department of Health and Social Services, P.O. Box 601, Juneau, Alaska 99811-0601 or [jon.sherwood@alaska.gov](mailto:jon.sherwood@alaska.gov). Please also feel free to call if you would like to arrange a meeting or discuss the upcoming State Plan Amendments on Personal Needs Allowance or Dentures.

Sincerely,



Jon Sherwood  
Acting Medicaid State Plan Coordinator

Attachment

cc: William J. Streur, Commissioner  
Kimberli Poppe-Smart, Deputy Commissioner  
Renee Gayhart, Tribal Programs



# Alaska Medicaid and Denali KidCare Tribal Consultation Policy & Procedures

## 1. CONSULTATION POLICY STATEMENT

In order to comply with Section 1902(a)(73) and Section 2107(e)(1) of the Social Security Act, the State of Alaska Department of Health & Social Services (Department) establishes this formal policy on tribal consultation for Medicaid and the Children's Health Insurance Program (CHIP). This relationship enhances and improves existing communication between parties and facilitates the exchange of ideas regarding state plan amendments, waivers, and demonstrations related to Medicaid and Denali Kid Care (the Federal Children's Health Insurance Program).

It is the intent and commitment of the Department to solicit advice, review, seek clarification, and utilize the aforementioned as appropriate from the federally recognized tribal health programs and the Indian Health Service (IHS) to ensure that they are included in the decision making prior to changes in programs that are likely to have a direct effect on American Indians or Alaska Natives (AI/ANs), tribal health programs or IHS, while preserving the right of the Department to make appropriate decisions.

The Department shall engage in Tribal Consultation when a State Plan Amendment, waiver proposal or amendment, and/or demonstration project proposal will likely have an effect on AI/ANs, tribal health programs (hospitals, 638 clinics/I HS/FQHC/other facilities and services funded under Medicaid or CHIP with Federal funds) or IHS. To the extent practical and permitted by law and for the purpose of effective collaboration and decision-making, the Department shall solicit advice, review, seek clarification, and utilize the aforementioned as appropriate from the tribal health programs and IHS to ensure that they are included as early as possible in the process.

The following Tribal Consultation policy statement includes an overview of the notification process the Department utilizes to inform identified/required parties with the timeline that allows for reasonable response time for tribal health programs and IHS to review and comment and for the Department to review and integrate input as deemed appropriate. It will detail the identification of the proposed changes, anticipated impacts on AI/ANs and/or tribal health programs and IHS describe how to provide comment and offer an opportunity to request more direct interaction with the Department regarding proposed changes. The Department will summarize comments received and which, if any, influenced the Department's submission and or changes.

## 2. COMMUNICATION METHODS

The Department will use the following methods to provide notice and request input from tribal health programs and IHS on all issues likely to have an effect on AI/AN beneficiaries.

### 2.1 WRITTEN CORRESPONDENCE (DEAR TRIBAL LEADER LETTER)

The Department will deliver written notices of state plan amendments, waivers, and demonstrations related to Medicaid and Denali Kid Care (the Federal Children's Health Insurance Program) to designated entities.

- Designated entities include but are not limited to:
  - a. Tribal health programs
    - i. Health Director
    - ii. Board Chair
  - b. Alaska Native Health Board

- c. Director, Alaska Area Native Health Service
- d. State/Tribal Medicaid Task Force

- The written notice (Dear Tribal Leader Letter) will include, but is not limited to:
  - a. Purpose of the proposal/change and proposed implementation plan; and
  - b. Anticipated impact on AI/ANs and tribal health programs and IHS as determined by the Department; and
  - c. Method for providing comments/questions; and
  - d. Timeframe for responses
- The Department may consolidate notice of multiple changes into a single letter. At the option of the tribal health program, the Department may substitute notification by email or other electronic means for delivery by mail.

## 2.2 Meetings

- Quarterly joint meetings with tribal health programs and IHS and/ or their designees, the Department, and the Alaska Native Health Board or other designated groups. The Department must be notified in writing if the designees change. This will suffice as documentation that the Department informed the appropriately designated entities.

### COMMITTEES/WORK GROUPS

Round tables and work groups should be used for discussions, problem resolution and preparation for communication and consultation. These will provide the opportunity for technical assistance teams from the Department and tribal health programs and IHS to address challenges or barriers and work collaboratively on development of solutions

- The Department and/or tribal health programs and IHS will designate technical representation on special workgroups as needed or recommended.

## 3. CONSULTATION TIMEFRAMES

The Department will request consultation at the earliest opportunity, no later than 60 days in advance of submission to the Centers for Medicare and Medicaid (CMS) to give appropriate tribal contact(s) adequate time to consider and respond to the impact of the communication. The tribal health programs and IHS should submit written comment within 30 days so the Department has time to review and incorporate changes as deemed appropriate. If there is a request for a face to face meeting, the Department needs to receive written request within 15 days of the initial notice in order to facilitate a meeting and make changes as deemed appropriate.

## 4. IMPLEMENTATION PROCESS AND RESPONSIBILITIES

As a component of continued systems accountability, this process will be reviewed and evaluated for effectiveness every four years, or as necessary. A report will be issued 90 days after the Alaska Medicaid and Denali KidCare Tribal Consultation Policy and Procedure review that summarizes the evaluation and details any new strategies and/or specific agreements.



#### **4.1 DEPARTMENT OF HEALTH AND SOCIAL SERVICES**

- Request consultation with tribal health programs and IHS as outlined in this statement
- Maintain electronic information for posting of the Department's Medicaid information for tribal health programs and IHS.
- Provide electronic and or written information through all the methods above
- Consider input and document action taken with the tribal health programs and IHS prior to final submission of all SPAs, waiver requests, and proposals for demonstration projects to CMS
- Provide written documentation of responses to Tribal health programs and IHS comments

#### **4.2 TRIBAL HEALTH PROGRAMS AND IHS: IN ORDER TO ENSURE THE SUCCESS OF THE DEPARTMENT'S COMMITMENT TO SOLICIT AND UTILIZE INPUT FROM TRIBAL HEALTH PROGRAMS AND IHS, THE FOLLOWING ARE STRONGLY ENCOURAGED.**

- Provide effective representatives to the appropriately designated Quarterly Meetings
- Representatives share information from committee meetings to others, as appropriate (representatives are responsible to disseminate information from the committee meeting to the appropriate tribal health organizations)
- Identify and facilitate effective participation on issue specific subject matter from representatives on special work groups as requested
- Keep electronic site updated with current contact information
- Provide comments/input/advice to help inform the process and ensure that Alaska Medicaid and Denali KidCare meet the needs of AI/ANs and tribal health programs and IHS.
- When specially requested to provide input on a proposed change, please document a response even if there are no comments.

### **5. PROCEDURES**

**5.1** The Department will notify tribal health programs and IHS, at the earliest opportunity, no later than 60 days in advance of submission to the Centers for Medicare and Medicaid (CMS) of state plan amendments, waiver requests, and proposals for demonstration projects and on a quarterly basis when state plan amendments are submitted and require consultation under this Policy with tribal health programs and IHS.

**5.2** Tribal health programs and IHS may identify a critical event or issue of concern and make a formal request for consultation with the Department, through the Commissioner's office.

**5.3** The Department and tribal health programs and IHS will determine the level of consultation needed (written, face to face meeting, or both) to address items #1 and #2, and request consultation as needed. The parties will determine if work groups should be tasked to work on technical questions in preparation for consultation and the timeline for process completion.

**5.4** The Department shall review the results of the consultation policy with tribal health programs and IHS and consider recommended changes .

**5.5** The Department shall post within 60 days from the close of the consultation period, or as soon as feasible, a summary of the outcome of consultation with tribal health programs and IHS which may be in the form of a submitted State Plan amendment.

**6. DISCLAIMER**

In executing or participating under this Consultation policy no party waives any rights, including treaty rights, immunities, sovereign immunities, or jurisdiction. This Consultation policy does not diminish any other rights or protections afforded AI/AN persons or entities under state or federal law. Through this Consultation policy, the parties strengthen their collective ability to resolve issues of mutual concern. While the relationship described by this Policy provides increased ability to solve problems, it may not result in a resolution of all issues. Therefore, inherent in their relationship is the right of each of the parties to elevate an issue of importance to any decision-making authority of another party, including, where appropriate, that party's executive office.

**7. EFFECTIVE DATE**

This policy is effective on the date of the signature by the Commissioner of the Department of Health & Social Services and may be reviewed at the request of a Tribal health program or IHS or the Department.

**8. Definitions:**

**Alaska Native Health Board:** a tribal health advocacy and awareness organization representing 25 tribal health organizations from across Alaska.

**American Indian:** Individuals the Federal Government recognizes in accordance with 25 USC Section 2902.

**Alaska Native:** Individuals the Federal Government recognizes in accordance with 43 USC Chapter 33 section 1602.

**Contracted Services:** The Department contracts with a large number of entities to provide client services, personal services and purchased services. These contractors include individual providers, public agencies and private (profit or non-profit) organizations, including but not limited to Area Agencies on Aging, Alcohol and Substance Abuse and Regional Support Networks. Other contracted agencies also provide licensing services, group care services and other social and health services.

**Culturally Relevant:** Describes a condition where services provided to clients are appropriate according to the clients' cultural backgrounds.

**Federally Recognized Tribes (Tribes):** Tribes recognized by the Federal government by treaty, statute, administrative process, or other intercourse with the United States.

**Identified Key Positions:** Department employees in positions that have decision-making authority or policy-changing authority, in regional or headquarters offices, whose emphasis of responsibility is working in conjunction or association with the AI/AN Tribes and Indian Health Providers on state plan amendments, waiver, Medicaid, CHIP, Indian Health, 628's, FQHC's, and any other definitions that may be needed for all parties.

**Tribal Health Program** means an Indian tribe or tribal organization, as those terms are defined in the Indian Self-Determination and Education Assistance Act, Pub. L. 93-638, as amended (ISDEAA), that operates any health program, service, function, activity, or facility funded, in whole or part, by the Service through, or provided for in, a contract or compact between the tribe or tribal organization and the Secretary of the United States Department of Health and Human Services pursuant to the ISDEAA,

